

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**December 20, 2007**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, December 20, 2007, at 1:30 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: M.S. Mitchell, Chair; Don Anderson, Vice Chair; Elizabeth Bishop; David Dennis (Out @3:40 p.m.); Darrell Downing; Michael Gisick (In @1:37 p.m.); Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; John W. McKay Jr.; Don Sherman; Debra Miller Stevens and G. Nelson Van Fleet. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Neil Strahl, Senior Planner; Derrick Slocum, Associate Planner and Maryann Crockett, Recording Secretary.

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#### **1. Approval of the December 6, 2007, MAPC minutes.**

**CHAIRMAN MITCHELL** mentioned correcting the spelling of Custer Street on pages 22, 23 and 24.

**MOTION:** To approve the December 6, 2007, minutes, as amended.

**MITCHELL** moved, **MCKAY** seconded the motion, and it carried (13-0).

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❖ **Items # 2-1 through 2-5 may be taken in one motion unless there are questions or comments.**

**2.** Consideration of Subdivision Committee recommendations from the meeting of December 13, 2007.

**2-1. SUB 2007-103: One-Step Final Plat -- BRENTWOOD SOUTH 3<sup>RD</sup> ADDITION**, located east of Webb Road on the north side of Pawnee.

NOTE: This is a replat of a portion of Brentwood South 2<sup>nd</sup> Addition.

#### **STAFF COMMENTS:**

- A. Water Utilities Department advises that in-lieu-of-assessment fees are needed for connection to water.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan. County Engineering requests a drainage plan.
- D. County Surveying advises of the need for a benchmark datum.
- E. Traffic Engineering has approved the access controls. The plat proposes one street opening along Pawnee.

- F. Due to the proposed 58-foot street, a zone change to a residential district is needed. In the alternative, a restrictive covenant is needed limiting the site to residential development.
- G. The Applicant shall guarantee the paving of the proposed street.
- H. The applicant shall submit a covenant that provides four (4) off-street parking spaces per dwelling unit on each lot that abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- I. GIS has requested the street be labeled as “Goebel Cir”.
- J. The platlor’s text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant’s responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **MCKAY** seconded the motion, and it carried (14-0).

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**2-2. SUB 2007-99: Final Plat – WOODS NORTH ADDITION**, located on the southwest corner of 127<sup>th</sup> Street East and 29<sup>th</sup> Street North.

NOTE: This site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned RR, Rural Residential and will be converted to SF-5, Single-Family Residential upon annexation.

**STAFF COMMENTS:**

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of City water and sanitary sewer (mains and laterals) to serve the lots being platted.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. City Engineering has approved the drainage plan. County Engineering requests a drainage plan.
- E. Traffic Engineering has approved the access controls. The plat proposes complete access control along the 127<sup>th</sup> St. East street frontage except for two street openings.
- F. Item "F" is amended to read as follows: An outright dedication of street right-of-way shall be extended from Shadowridge to 29th Street North. A Restrictive Covenant shall be provided that limits connection to 29th Street North until 29th Street North is paved.
- G. County Engineering recommends paving 127<sup>th</sup> St. E. and 29<sup>th</sup> St. N. along adjoining area of the plat. The Subdivision Committee approved the submittal of two paving petitions for 127<sup>th</sup> St. East to City Engineering. One petition shall extend from the Fairmont Addition to the southernmost entrance of this plat and one petition shall extend to the next entrance to the north.
- H. County Engineering recommends annexation of 127<sup>th</sup> St. E. and 29<sup>th</sup> St. N.
- I. County Surveying advises that a dimension of the west line of pipeline easement is needed from the east line of the plat.
- J. County Surveying advises that the pipeline needs to define building setback requirement from their line.
- K. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- L. Since Reserve H includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. The design for the pool must be submitted to Environmental Services for review prior to issuing a building permit for the pool.

- M. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- N. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- O. The plat's text shall specify that the owners of Reserve K shall bear the cost of any repair or replacement of improvements within said reserve resulting from street construction, repair, or maintenance.
- P. Since this plat proposes the platting of narrow street right-of-way with adjacent "15-foot street drainage and utility easements", a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- Q. The applicant shall submit a covenant that provides four (4) off-street parking spaces per dwelling unit on each lot that abuts a 32-foot or 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- R. GIS has requested the entrance off of 29<sup>th</sup> needs to be named "Davin." Shadowridge should be Davin. Shadowridge Ct should be CIR. The north Eagle Ct should be CIR. The middle Eagle Ct adjoining Lot 60, Block D should just be Eagle. Woodridge needs to be labeled at lots 30-33, Block A.
- S. The Subdivision regulations discourage the inclusion of pipeline easements within the perimeter of residential lots. It is recommended that the pipeline crossing the east property line of Blocks A and D be included within a Reserve, or in the alternative a restrictive covenant provided identifying the pipeline easement.  
  
The pipeline easements have been included within Reserves as requested.
- T. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- U. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- V. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- X. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-

946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Z. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- AA. Perimeter closure computations shall be submitted with the final plat tracing. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- BB. Westar Energy requests additional easements.
- CC. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**NEIL STRAHL**, Planning staff presented the staff report.

**STRAHL** explained that after further discussion with the applicant, staff has opted for an "out right" dedication of street right-of-way from Shadowridge to 29<sup>th</sup> Street North as opposed to a "contingent dedication" and, therefore, staff was requesting that item F under "Staff Comments" be removed from the Staff Report.

Responding to a question from **HENTZEN**, **STRAHL** indicated that the connection to 29<sup>th</sup> Street would be paved now. In response to a question from **BISHOP**, he indicated that the drainage plan had been approved.

**CHAIRMAN MITCHELL** clarified that the drainage plans for all subdivision cases being heard at today's hearing have been received and approved by staff.

**GISICK** in @1:37 p.m.

**MOTION**: To approve subject to staff recommendation.

**JOHNSON** moved, **MCKAY** seconded the motion, and it carried (14-0).

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- 2-3. **SUB 2007-110: One-Step Final Plat – AFTON LAKESIDE ESTATES SECOND ADDITION,**  
located on the north side of 47<sup>th</sup> Street South and east of 247<sup>th</sup> Street West.

**NOTE:** This is unplatted property located in the County. It is in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Goddard Area of Influence.

**STAFF COMMENTS:**

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. The alternative sewer system shall be located in conformance with County Code Enforcement requirements.
- B. The site is currently located within the Sedgwick County Rural Water District No. 4. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection. *The applicant has proposed connection to the rural water system.*
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. County Engineering needs the applicant’s drainage plan. The drainage plan should show eradication of terraces. A drainage easement or floodway reserve may be needed based on the drainage plan.
- E. The applicant proposes one opening per lot. County Engineering recommends a 40-foot joint access between Lots 1 and 2.
- F. The applicant shall guarantee the closure of the existing entrance.
- G. Both lots do not conform with the 200-foot lot width standard, which is measured at the building setback line. An increase in the distance of the building setback from the road would meet the standard in conjunction with the approval of an administrative adjustment for lot width.
- H. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- I. The plat’s text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant’s responsibility to contact all appropriate agencies to determine any

such requirements.

- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Q. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **MCKAY** seconded the motion, and it carried (14-0).

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**2-4. SUB 2007-113: One-Step Final Plat -- HUSKERHAWK ADDITION,** located north of 69<sup>th</sup> Street North and on the east side of Broadway.

NOTE: This is unplatted property located in the County within three miles of the City of Wichita. It is in an area designated as "2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Park City Area of Influence.

**STAFF COMMENTS:**

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Sedgwick County Rural Water District No. 2. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. County Engineering has approved the applicant's drainage plan.
- E. The plat denotes three openings along Broadway. County Engineering has approved the access controls.
- F. The labeling of Broadway as "US 81 Highway" should be deleted.
- G. The title block should state "An Addition to Sedgwick County".

- H. The applicant is reminded that this site is located within three miles of the City Limits of Wichita and will be heard by City Council. Therefore, the City Council signature block needs to be included on the final plat.
- I. The applicant shall submit a copy of the instrument, which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements. Any relocation, lowering or encasement of the pipeline, required by this development, will not be at the expense of the appropriate governing body.
- J. The applicant's agent shall determine any setback requirements for the pipelines by researching the text of the pipeline agreements. If a setback from the pipeline easements is provided for in the pipeline easement agreements, it shall be indicated on the face of the plat.
- K. For the pipeline easement on the property, the final plat tracing shall include in the labeling of the easement the name of the company benefiting from the easement agreement.
- L. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- M. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. The representatives from the utility companies should be prepared to comment on the need for any



additional utility easements to be platted on this property.

- U. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION**: To approve subject to staff recommendation.

**JOHNSON** moved, **MCKAY** seconded the motion, and it carried (14-0).

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**2-5. SUB 2007-114: One-Step Final Plat -- HEARTLAND VETERINARY ADDITION**, located south of 29<sup>th</sup> Street North and on the east side of 247<sup>th</sup> Street West.

NOTE: This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. A Conditional Use (CON 2007-39) has been approved for the site.

**STAFF COMMENTS:**

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. County Engineering has approved the applicant’s drainage plan.
- D. The plat denotes one opening along 247<sup>th</sup> St. West. County Engineering has requested the final plat tracing define the opening in accordance with the site plan.
- E. The Applicant is advised that if platted, the building setback must be located 85 feet from the centerline of 247<sup>th</sup> St. West to conform with the Zoning setback standards for County roads.
- F. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- G. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- H. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any

associated documents.

- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- P. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **MCKAY** seconded the motion, and it carried (14-0).

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❖ **PUBLIC HEARINGS – VACATION ITEMS**

**3-1. VAC 2007-39: Request to vacate a platted setback**

<b><u>APPLICANT/OWNER:</u></b>	Premier Builders, c/o Brian H Bidders
<b><u>LEGAL DESCRIPTION:</u></b>	Generally described as the platted 30-foot setback that runs parallel to Doris Street on Lot 11, Block D, Westbreeze 2 <sup>nd</sup> Addition, Wichita, Sedgwick County, Kansas.
<b><u>LOCATION:</u></b>	Generally located east of I-235, on northwest corner of Doris Street and Maple Street (WCC IV)
<b><u>REASON FOR REQUEST:</u></b>	Build single family residences
<b><u>CURRENT ZONING:</u></b>	Site and abutting and adjacent northern, eastern and western and properties are zoned "SF-5" Single-family Residential. Adjacent

southern properties, across Maple Street, are zoned "LC" Limited Commercial (CUP DP-71)

The applicant proposes to vacate the platted 30-foot setback. The zoning of the subject site is "SF-5." The UZC requires a minimum of a 25-foot front yard setback for the "SF-5" zoning district. If the setback was not platted and it was the minimum 25-foot setback for the "SF-5" zoned site, the applicant could apply for an Administrative Adjustment, which would reduce a 25-foot setback by 20%, resulting in a 20-foot setback. The applicant is requesting a reduction of the platted setback to 20-feet. There are no platted easements, water lines, manholes or sewer line located in the described portion of the platted setback. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the described portion of the platted setback. The Westbreeze 2nd Addition was recorded with the Register of Deeds May 22, 1950.

NOTE: There were two individuals that protested the request at the Subdivision Committee meeting. Their issues included the size of the houses going on the lots, possible off street parking and the development of the property with houses that would extend 10-feet beyond the rest of the homes in the subdivision. The applicant replied that they could build within the UZC's 25-foot minimum for the "SF-5" zoning district if necessary. The individuals who protested the vacation case were told that there was a 2-week protest period that began after the MAPC meeting and that there were protest forms that planning staff would give them.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of the described portion of the platted setback with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
  - 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle and the Derby Reporter of notice of this vacation proceeding one time November 29, 2007 which was at least 20 days prior to this public hearing.
  - 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted setback and the public will suffer no loss or inconvenience thereby.
  - 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of the platted setback described in the petition should be approved subject to the following conditions:
  - (1) The platted 30-foot setback, located on Lot 11, Block D, Westbreeze 2nd Addition, along its Doris Street frontage will be replaced with a 20-foot setback.
  - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
  - (3) All improvements shall be according to City standards and at the applicant's expense.
  - (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County

Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

- (1) The platted 30-foot setback, located on Lot 35, Block 2, Prairie Park Addition, along its Waverly Drive frontage will be replaced with a 20-foot setback.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (3) All improvements shall be according to City standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**BILL LONGNECKER**, Planning staff presented the staff report. He commented that the map provided on the front page of the Staff Report was incorrect; however, the maps attached to the report were correct.

It was noted for the record that the applicant was not present.

**BISHOP** also noted that the Subdivision recommendation was different than what the rest of the report reflected.

**LONGNECKER** replied that it appeared to be an incorrect cut and paste.

**JOHN R. DREW, 235 S. DORIS**, said he is upset that the City is considering allowing two houses on a quarter lot, when most lots in the area are ½ acre in size. He commented that he would be filing a protest because he did not think it was right to build on frontage land. He referred to several areas on the map including where he lived.

**RON REONNE, 144 S. DORIS**, said the lot is already split, and he could not understand why the City is considering putting two more houses on it. He added that the neighbors have received no information on the type of housing being proposed, and asked if it would be rental housing, modular, or what?

**MOTION:** To approve subject to staff recommendation.

**DOWNING** moved, **MCKAY** seconded the motion, and it carried (14-0).

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**3-2. VAC 2007-41: Request to vacate a portion of a platted reserve and its restriction of uses,**

**OWNER/AGENT:**

Corral Group, LP, c/o Luis Ibarguengoytia  
Baughman Company, PA, c/o Phil Meyers

**LEGAL DESCRIPTION:** None given in regards to that portion of Reserve A, the Golden Corral Addition (Wichita, Sedgwick County, Kansas) that the applicant wants to place signs.

**LOCATION:** Generally located on the north side of Greenwich Road and west of Kellogg Street (WCC #II)

**REASON FOR REQUEST:** Signs

**CURRENT ZONING:** Subject property and adjacent (across Kellogg) southern properties are zoned "LI" Limited Industrial. Abutting northern and western properties are zoned "GI" General Industrial. Abutting eastern property is zoned "LC" Limited Commercial.

The applicants are requesting consideration for the vacation of an undescribed portion of the platted Reserve A that abuts the east and south sides of Lot 1, Block A, all in the Golden Corral Addition and the restriction of uses in the plat's text to allow signs. The uses that Reserve A has been set aside for include open space, landscaping, lakes, drainage purposes and utilities confined to easements. There are utility and drainage easements in the reserve. Water, sewer and manholes, appear to be confined to the easements located in the reserve. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the reserve. Per the plat's text Reserve A shall be owned and maintained by the owner of Lot 1, Block A, the Golden Corral Addition. The site is located within the "Spring Branch Master Drainage Plan" and will require review by Storm Water. The Golden Corral Addition was recorded with the Register of Deeds January 4, 2007.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, Storm Water, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the portion of the platted Reserve A and the uses of that portion of the platted Reserve A as described in the approved legal description to allow that portion of the platted reserve to allow signs in that portion of the vacated reserve.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in Wichita Eagle and the Derby Reporter of notice of this vacation proceeding one time November 29, 2007 which was at least 20 days prior to this public hearing
2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted reserve and the proposed uses allowed in vacated portion of the platted reserve and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of a portion of the platted reserve and the uses allowed in the vacated portion of the platted reserve described in the petition should be approved subject to the following conditions:

- (1) Vacate the approved portion of the platted Reserve A, the Golden Corral Addition, subject to comments from Storm Water in regards to location of the Reserve in the "Spring Branch Master Drainage Plan" and possible retention of a portion for equipment or construction and

maintenance of public drainage and lakes. Provide Staff with a copy of the approved legal of the vacated reserve, via e-mail on a Word document.

- (2) Vacate the use restrictions as listed in the approved vacated portion of the platted Reserve A to also allow signs as allowed per the zoning district and the sign code.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

1. Vacate the approved portion of the platted Reserve A, the Golden Corral Addition, subject to comments from Storm Water in regards to location of the Reserve in the "Spring Branch Master Drainage Plan" and possible retention of a portion for equipment or construction and maintenance of public drainage and lakes. Provide Staff with a copy of the approved legal of the vacated reserve, via e-mail on a Word document.
2. Vacate the use restrictions as listed in the plat's text and in the approved vacated portion of the platted Reserve A to also allow signs as allowed per the zoning district and the sign code.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
4. All improvements shall be according to City Standards and at the applicants' expense.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **HENTZEN** seconded the motion, and it carried (14-0).

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❖ **PUBLIC HEARINGS**

4. **Case No.: ZON2007-58** – Jerry & Diane Brown, Dale Smith, & City of Wichita (applicant/owner) Poe & Associates, Tim Austin Request City zone change from "B" Multi-Family to "LC" Limited Commercial on property described as;

Lots 39, 40, 37, 38, 23 thru 28; Block 4, East Highlands Addition, Wichita, Sedgwick County,

Kansas. Generally located Northeast of the intersection of Oliver and Central Avenues.

**BACKGROUND:** The applicant is requesting “LC” Limited Commercial zoning on Lots 40, 39, 38, 37, 28, 27, 26, 25, 24, & 23, Block 4, East Highland Addition. The site is currently zoned “B” Multi-family Residential. The site’s Oliver Avenue side has two, vacant (built 1942 & 1944) single-family residence on it and a parking lot, in need of maintenance, along its Glendale Avenue side. The two residences on the Oliver side each have driveways onto Oliver and they face Oliver, which is a four-lane minor arterial. The parking lot on the Glendale side has several drives onto Glendale, which is a residential street.

A vacant bingo hall (1948, originally a movie theater), zoned “LC,” abuts the site’s south side and a portion of its west side. One of the applicants owns this bingo hall, which could become a part of a redevelopment of the subject site. An “LC” zoned, vacant liquor store (1947) is located south, across a vacated portion of Elm Street (V-1250), from the bingo hall. The vacation of this portion of Elm prevents traffic off of the Glendale side of the site from access onto Oliver and forces traffic through a residential neighborhood. West of the site, across Oliver there are a two-story apartment building (1977) and a single-story office building (1977), all zoned “GO,” General Office. An “LC” zoned single-story office (1985) and Quick Trip (1991, on the Oliver – Central Avenues intersection) convenience store are south of the “GO” site. Abutting the north side of the site, there are “B” zoned single-family residences and what appears to be a vacant duplex (all built in the 1940s). East of the site, across Glendale, there are “TF-3,” duplex, zoned single-family residences. Generally speaking the intersection of Oliver and Central has mostly commercial and some office zoned sites on all four of its corners, which are occupied by a small Dillon’s, fast food, small strip retail/office and free standing retail/office, a Quick Trip, restaurants, auto garages, and some vacant retail/office buildings. Residential neighbors are located behind these developments and beginning where the commercial or office zoning ends along Central and Oliver.

**CASE HISTORY:** The site is part of the, East Highland Addition, which was recorded with the Register of Deeds August 5, 1924.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“B”	single-family residences, vacant duplex
SOUTH:	“LC”	vacant bingo parlor, vacant liquor store
EAST:	“TF-3”	single-family residences
WEST:	“GO,” “LC”	apartment, office, convenience store

**PUBLIC SERVICES:** All municipal services and utilities are available. Glendale Avenue is a paved residential street. Oliver Avenue is a paved four-lane minor arterial. Both roads are shown to remain the same on the 2030 “Transportation Plan.” There are currently approximately 15,500 to 21,000 ATD on the Central-Oliver intersection. The 2030 high projection is 23,000 ATD. There appears to be 30-feet of half-street right-of-way at this location; 50-feet of half street ROW is the standard to allow for additional turn lanes at this intersection. Both the Ruffin 4<sup>th</sup> Addition (5-2-1973) and the Williams 2<sup>nd</sup> Addition (6-17-1976) dedicated 20-feet of ROW when they were replatted for redevelopment (built 1985 & 1977), both of these properties are located directly west of the site, across Oliver Avenue.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide”, of the Comprehensive Plan identifies the site as appropriate for “urban residential” (the Oliver side) and “local commercial” (the Glendale side). The “urban residential” category includes all densities of residential development found within the urban municipality. The “local commercial” category includes commercial, office and personal service uses that do not have a regional draw. The site is also located within the “Central Northeast Area Plan,” which recommends retaining existing businesses and attracting new businesses that would be more neighborhood serving retail and personal services. This site and the requested zoning are mostly in compliance with the “Land Use Guide” and the “Northeast Plan.” The issue is the “Land Use Guide” showing the two single-family residences along Oliver to be used a residential. The fact that the residences are facing Oliver, have small front yards between them and

Oliver, have access only onto Oliver and are within 300-feet of the Oliver-Central intersection has made them less attractive for residential use.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request for the “LC” zoning be APPROVED, contingent on the provisions of Protective Overlay #120, being complete within one-year of approval by the governing body.

(1)(a) Dedication of ROW along Oliver to meet the 50-foot of half street ROW standard for this intersection. (b) Dedication of cross lot access between the site and one of the applicants’ abutting southern (bingo hall) property. (c) Dedication of access control onto Oliver Avenue and possible complete access control onto Glendale Avenue. All reviewed and approved by the Traffic Engineer, all accomplished either through the replatting process or by dedication of separate instruments.

(2) Because the site is partially in a FEMA flood area provide a drainage plan for review and approval by the Storm Water Engineer.

(3) No signage allowed along the north and east sides of the site, where the site is adjacent to residential development. No off-site signs. Monument signs are allowed per the sign code for the “LC” zoning district.

(4) On site pole lighting will be no taller than 15-feet including the base/pedestal. Pole lighting will be directed down onto the site away from adjacent residential development. No pole lighting will be placed within setbacks.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Properties located along the four corners of the Oliver-Central Avenues’ intersection are zoned “LC,” with “B” and “GO” zoning coming into place further away from the intersection. Development in these zoning districts include a small Dillon’s, fast food, small strip retail/office and free standing retail/office, a Quick Trip, restaurants and auto garages, some vacant retail/office buildings, with residential neighbors behind these developments and beginning where the commercial or office zoning ends. The residential development in this described area are zoned “B,” “TF-3,” and “SF-5.”
2. The suitability of the subject property for the uses to which it has been restricted: Although the site is too small to reach the density allowed by the “B” zoning for an apartment development, it’s size is appropriate for its current use as two, single-family residences. The site’s close proximity to the Oliver-Central intersection and the fact that the residences are facing Oliver, have small front yards between them and Oliver, have access only onto Oliver makes them less attractive as residential properties.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Code requirements for compatibility setbacks, screening, landscaping, as well as limiting access onto Oliver and Glendale streets could minimize the impact on the adjacent residential development east and north of the site. The access onto Glendale is problematic because the vacation of the adjacent portion of Elm prevents traffic off of the Glendale side of the site from access onto Oliver and forces traffic through a residential neighborhood. These considerations could also improve this side of the Oliver-Central intersection in regards to upgrading its appearance and more improved access onto Oliver.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide”, of the Comprehensive Plan notes the site as appropriate for “urban residential” (the Oliver side) and “local commercial” (the Glendale side). The site is also located within the “Central Northeast Area Plan,” which recommends retaining existing businesses and attracting new businesses that would be more neighborhood serving retail and personal services. The “Plan” also sites the need for reinvestment in the area through several types of funding. This site and the requested zoning are mostly in compliance



with the "Land use Guide" and the "Northeast Plan." The issue is the "Land Use Guide" showing the two single-family residences along Oliver to be used a residential. The fact that the residences are facing Oliver, have small front yards between them and Oliver, have access only onto Oliver and are within 300-feet of the Oliver-Central intersection has made them less attractive for residential use.

5. Impact of the proposed development on community facilities: Traffic onto Oliver Avenue would increase off of the site and drainage off of the site will increase because of the additional paving in the redevelopment. Drainage is a concern because an eastern portion of the site, Glendale Avenue, and the adjacent eastern residential neighborhood are located in a FEMA flood area. Limiting or denying access onto Glendale is also an issue, in regards to keeping traffic out of the eastern adjacent residential neighborhood.

**BILL LONGNECKER**, Planning staff presented the staff report.

Responding to several questions from **MCKAY** regarding access control and circulation around the proposed project area, **LONGNECKER** noted that there appeared to be five drives from the site and the abutting southern property, which was owned by one of the applicants, onto Oliver. He stated that staff would want access control to Oliver reviewed by the Traffic Engineer, as well as possible complete access control onto Glendale, a residential street, in order to avoid commercial traffic using streets in the surrounding neighborhood. He also noted that the PO required dedication of cross-lot access to ensure that the site's future businesses would have access to the same drives onto Oliver.

Responding to **BISHOP'S** question concerning the vacation of Elm Street, **LONGNECKER** explained that it is typical that reversion of right-of-way go to the abutting property owners of the lots that were platted with the right-of-way, in this case half of Elm would go to the northern and half to the southern properties. He also responded to **BISHOP'S** questions about drainage issues in the area, by noting that staff was requesting a drainage plan for review in reference to the flooding in the area to the east of the site, which Glendale was the western portion of the flooding area.

**TIM AUSTIN, POE & ASSOCIATES, AGENT FOR APPLICANT** clarified that he and his client were interpreting access control as complete access control and that they would be working with City Traffic Engineering to identify access points. He said there would be access along Oliver; however, they had no intention to allowing commercial traffic into the neighborhood. He concluded by stating that the entire area was being evaluated for redevelopment. He concluded by stating that they agreed with staff comments.

**JERRY BROWN, 619 GLENDALE**, said he was the owner of the property where the bingo parlor is located, and owned one of the properties on this case. He said he also owns a home at 619 Glendale. He asked what developers were planning on doing in the area?

**MCKAY** said according to the application, the MAPC was led to believe that Mr. Brown was part of the development but now he is indicating that he has sold the property. **MCKAY** asked about the planned development of the area, and whether the rezoning request was premature.

**LONGNECKER** said that Mr. Brown was on the zoning application, and was listed on the ownership list as the owner of the parking lot, which was part of the application. He also pointed out that the City owned one property, abutting Brown's bingo parlor, and that another applicant owned the other residential property listed on the application and ownership list. All three applicants signed on the application and were listed on the ownership list.

**TIM AUSTIN** said he did not know the status about the on-going real estate negotiation with the City. He said the City and the buyer were discussing redevelopment in the area, which may include some financial incentives from the City, including Tax Increment Financing (TIF). He said the requested

rezone was part of the overall process, and that he understood that if the area was not rezoned, it might jeopardize redevelopment of whole area.

Responding to a question from **MILLER STEVENS**, Mr. Brown indicated that he owned the area outlined in red on the overhead map, which was the parking lot site.

**FRED JOYCE, CLEARWATER, KANSAS** said he owned two properties north of the area along North Oliver and added that he was also curious as to what was being planned for the area, and how it may affect the tax base.

**MOTION:** To approve subject to staff recommendation.

**HILLMAN** moved, **JOHNSON** seconded the motion, and it carried (14-0).

**MCKAY** suggested asking the City what they are planning for the property.

**SUBSTITUTE MOTION:** To defer the application for further information.

**MCKAY** moved, **BISHOP** seconded the motion and it failed (12-2).

**ANDERSON, DENNIS, DOWNING, GISICK, HENTZEN, HILLMAN, JOHNSON, MARNELL, MILLER STEVENS, MITCHELL, SHERMAN and VAN FLEET** – No.

**HILLMAN** said he had trouble believing that working with Traffic Engineering would modify and improve the hazardous traffic conditions at the intersection.

**BISHOP** said she is flummoxed when one of the applicants is asking the MAPC what is happening at the location. She said that indicated to her that this proposal was not ready for MAPC review/recommendation.

**SCHLEGEL** asked for clarification as to what information the MAPC was requesting. He asked if they were looking for information on the City's involvement in future improvements along Oliver; why the City owns the property; or what were the City's future plans for development of the area?

**MCKAY** said he would like to see an overall plan as to what the developers think might happen in the area.

**SCHLEGEL** reiterated that he did not believe the City had plans to redevelop the area; that private parties were attempting to assemble land at this corner. He said the City had made right-of-way improvements at the intersection, and that some incidental land purchases occurred because of those improvements; however, this proposal was not a City redevelopment project. He concluded by stating that he did not believe the Commission was going to be able get an answer on the planned development of the area from the City of Wichita

**TIM AUSTIN** commented that discussions of a "proprietary nature" were on-going that he could not discuss because his client was evaluating the proposal, which might include public assistance and tax increment financing.

**GISICK** commented that he was going to support the original motion.

**JOHNSON** stated that he was going to support the original motion, which included requirements for a drainage plan.

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5. **Case No.: ZON2007-59** – Cox Family Revocable Trust (owner) Rainbows United Attn: Michelle Eastman (applicant/agent) Request Amendment to zone case SCZ-0721 to terminate Protective Overlay #4 on property described as;

Lot 1, Cox Machine 2nd Addition, Wichita, Sedgwick County, Kansas Generally located Northeast of the intersection of Zoo Blvd. and N. Lakeway Cir. (5936 W. 21st St N.).

**BACKGROUND:** The application area is 1.2 acres located north of West 21<sup>st</sup> Street North, one-quarter mile west of Hoover Road. The application area is zoned “LI,” Limited Industrial, but is subject to Protective Overlay P-O #4 that contains a single provision that states the following: “The placement of any off-site sign on this property is prohibited.” The applicant is seeking to amend this Protective Overlay to allow an off-site sign to direct parents and others to the Rainbows United facility, which does not have 21<sup>st</sup> Street frontage, and is located behind the Cox Machine Shop property.

Property surrounding the application area includes the Horseshoe Lake Community unit Plan, that is located within CUP DP-75, is zoned “GO,” General Office but is developed with single-family residences and is located to the west of the application area. Immediately to the north and east of the application area is property containing the Cox Machine Shop that zoned “LI” Limited Industrial, but not part of DP-75. Further to the north and east are two lots zoned “GC,” General Commercial, also part of CUP DP-75. The lot furthest to the north is developed with the offices of Rainbows United, while the property to the east is developed with a strip center.

When this case was originally heard by the MAPC on October 17, 1996, it was deferred at the MAPC meeting in order for the applicant to meet with property owners to the north of the site. During the October 31, 1996, Planning Commission’s discussion of this matter, the agent for the applicant stated that concern over the expansion of industrial zoning voiced by a representative of Rainbow’s United during the October 17<sup>th</sup> MAPC meeting had been lessened. Questions concerning groundwater contamination, the compatibility of industrial uses with the surrounding land uses, and the screening requirements of this site were asked by the Planning Commission. After discussion, the MAPC voted (12-0) to approve the request as recommended by staff, including a Protective Overlay to prohibit the placement of any off-site signs on this property.

This current request is to amend the existing Protective Overlay to allow one (1) off-site sign no larger than 100 square feet and no taller than twelve (12) feet. The original application called for the elimination of the Protective Overlay. Eliminating the provision of prohibiting off-site signs could open up this property to another off-site sign that could be larger and taller than the current proposed off-site sign. After discussions with the applicant, staff felt that this would be the best compromise, by allowing the smaller Rainbows United sign while still keeping the prohibition on larger off-site billboard signs.

**CASE HISTORY:** BZA8-94 was approved, with conditions, in 1994 to eliminate the screening requirement adjacent to residential zoning. Also in 1994, “E,” Light Industrial zoning was approved for part of the property, subject to platting. The property was platted as Cox Machine Second Addition in 1997. Also in 1997, the City Council approved a request for “LI,” Limited Industrial, with Protective Overlay #4, for Lot 1 of the Cox Machine Second Addition.

**ADJACENT ZONING AND LAND USE:**

NORTH:	“LI”	Limited Industrial	Parking
SOUTH:	“SF-20”	Single-family Residential	Sedgwick County Zoo
EAST:	“LI”	Limited Industrial	Machine Shop
WEST:	“GO”	General Office	Vacant

**PUBLIC SERVICES:** The site has access to 21<sup>st</sup> Street North, which is a paved four-lane, principal arterial, with acceleration and deceleration lanes. The nearest traffic counts show around 30,000 vehicle trips per day along this stretch of 21<sup>st</sup> Street North. All other public services are available.

**CONFORMANCE TO PLANS/POLICIES:** The Comprehensive Plan does not specifically speak to this type of request, however, the Plan does contain a number of statements encouraging: evaluation and implementation of an effective development plan review process to ensure that building placement and height, circulation, signage, screening and lighting for non-residential land uses do not adversely impact residential areas; development of a comprehensive directional sign program for major public and private attractions, points of interest and necessary transportation facilities; integrating the development of out parcels in relation to planned retail centers through shared internal vehicular and pedestrian circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations; and enhancing the visual image of the community through closer attention to the design and manner of placement of elements along major streets, including public and private signage, tree planting, utility poles, wires and cabinets, and other street furniture. The comprehensive plan contains objectives specifically designed to improve the visual appearance of the city by paying closer attention to the design and manner of placement of elements along major streets.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request to eliminate Protective Overlay #4 be APPROVED, as requested by the applicant.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property surrounding the application area includes the Horseshoe Lake Community Unit Plan DP-75, that is zoned "GO," General Office but is developed with single-family residences and is located to the west of the application area. Immediately to the north and east of the application area is property containing the Cox Machine Shop that zoned "LI" Limited Industrial, but not part of DP-75. Further to the north and east are two lots zoned "GC," General Commercial, also part of CUP DP-75. The lot furthest to the north is developed with the offices of Rainbows United, while the property to the east is developed with a strip center.
2. The suitability of the subject property for the uses to which it has been restricted: Use of the property and its appurtenances, is currently regulated by the standards established by the "LI" zoning district, and the conditions contained in PO-4. The two lots within this zone are covered in Protective Overlay #4. Currently, Protective Overlay #4 states: the placement of any off-site signs on this property is prohibited. With the amendment, the condition in the Protective Overlay would allow one (1) off-site sign no larger than 100 square feet and no taller than twelve (12) feet. The reason for the amendment of the Protective Overlay is due to a request from Rainbows United to place an off-site sign on the subject site to direct parents and others to the Rainbows United facility, located directly behind the subject site. The property owner does not have any problems with Rainbows United placing a sign on his property, but the current Protective Overlay would not allow for the sign placement.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The restriction was originally designed to protect the subject site's neighbors (specifically, Rainbows United) to address concerns about compatibility of land uses and signage. Failure to comply with these conditions could have resulted in changes to the character of the application area that could allow uses that were not seen to be compatible with adjacent uses and nearby development character. The property owner has abided by the Protective Overlay and now Rainbows United has approached the property owner about putting a sign on the subject site to direct people to their facility. Any sign located on the subject property will be subject to the regulations set forth in the

City of Wichita Sign Code. There should be no detrimental impacts due to the amendment of this Protective Overlay so long as the regulations in the sign code are followed.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The key hardship to the applicant appears to be the possibility of a sign on his property that is not of his own. The public will be better served by having a directional sign to an important facility that assists children and families.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan does not specifically speak to this type of request, however, the Plan does contain a number of statements encouraging: evaluation and implementation of an effective development plan review process to ensure that building placement and height, circulation, signage, screening and lighting for non-residential land uses do not adversely impact residential areas; development of a comprehensive directional sign program for major public and private attractions, points of interest and necessary transportation facilities; integrating the development of out parcels in relation to planned retail centers through shared internal vehicular and pedestrian circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations; and enhancing the visual image of the community through closer attention to the design and manner of placement of elements along major streets, including public and private signage, tree planting, utility poles, wires and cabinets, and other street furniture. The comprehensive plan contains objectives specifically designed to improve the visual appearance of the city by paying closer attention to the design and manner of placement of elements along major streets.
6. Impact of the proposed development on community facilities: None identified.

**DERRICK SLOCUM**, Planning staff presented the staff report.

**SLOCUM** commented that the original application requested elimination of the Protective Overlay (PO) so Rainbows United could place a directional sign; however, it was decided to request an amendment to the PO to allow the sign.

## **TAPE 1, SIDE 2**

For the record, the applicant declined to speak.

**MOTION:** To approve subject to staff recommendation.

**JOHNSON** moved, **HENTZEN** seconded the motion, and it carried (14-0).

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6. **Case No.: ZON2007-60** – Connie Toms (owner) Request City zone change from "SF-5" Single-family Residential to "NR" Neighborhood Retail on property described as;

Lot 1, Block G, Cloudridge Addition, Sedgwick County, Kansas. Generally located Midway between Hillside & Oliver Avenues, on the northwest corner of 21st Street North & Belmont Avenue.

**BACKGROUND:** The application area is a .79-acre site with access and 150 feet of frontage on 21st Street N., located at the northwest corner of 21<sup>st</sup> Street N. and N. Belmont. The site is zoned "SF-5" Single-family Residential; it is developed with a single-family residence built in 1954. The applicant seeks a zone change to "NR" Neighborhood Retail for a spa/salon use.

North, east, and west of this site are SF-5 zoned single-family residences built in the 1950's and 60's. South of the site, across 21<sup>st</sup> Street N., is Wichita State University with SF-5 base zoning and the "U" University Overlay District. Adjacent to the site, this portion of Wichita State includes an access drive, parking areas, a golf course, a visitor center, and a baseball stadium. Two blocks west of this site, also on the north side of 21<sup>st</sup> Street N., are several SF-5 zoned sorority houses. Further west is a church, and a cemetery/funeral home at the Hillside and 21<sup>st</sup> Street N. intersection. The nearest commercial zoning to this site is the "LC" Limited Commercial zoned commercial area at the northeast corner of Oliver and 21<sup>st</sup> Street N., over 1,700 feet east of this site.

**CASE HISTORY:** The site was platted as Lots 1, Block G of the Cloudridge Addition in 1951.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-5"	Single-family residences
SOUTH:	"SF-5" and "U"	University
EAST:	"SF-5"	Single-family residences
WEST:	"SF-5"	Single-family residences

**PUBLIC SERVICES:** 21<sup>st</sup> Street N. is a 5-lane, section-line arterial street with a 90-foot right-of-way (ROW) at this location. The 21<sup>st</sup>/Belmont intersection is signalized, and central left turn lanes exist for both east and west-bound 21<sup>st</sup> Street N. The traffic count for this portion of 21<sup>st</sup> Street N. is 19,465 vehicles per day. Belmont is a paved, 2-lane local/residential street at this location with a 60-foot ROW. The application area has one access point from 21<sup>st</sup> Street N., approximately 75 feet west of the Belmont intersection. All normal utilities are available at the site.

**CONFORMANCE TO PLANS/POLICIES:** The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Urban Residential." The Urban Residential category includes all densities of residential development found within the urban municipality. The Comprehensive Plan Commercial Locational Guidelines state the following: commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion; commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses; commercial uses should locate in compact clusters or nodes versus extended strip developments; and commercially-generated traffic should not feed directly onto local residential streets. The application area is located within the Northeast Heights Neighborhood Association. No neighborhood plans exist at this location; the 21<sup>st</sup> Street North Corridor Redevelopment Plan exists west of Hillside and does not include this site.

The City of Wichita Access Management Policy would require a 200 to 400-foot separation between a 21<sup>st</sup> Street N. access point on this property and Belmont Street. The 150-foot frontage of this property would not allow an access point to 21<sup>st</sup> Street N. under the Access Management Policy.

The proposed zone change from "SF-5" to "NR" would require conformance to all property development standards of the Unified Zoning Code (UZC). The UZC would require setbacks, compatibility standards, parking, and screening. The Landscape Code would require a landscape plan on this site under commercial zoning.

**RECOMMENDATION:** The proposed zone change to NR would permit a number of uses (such as retail, restaurants, banks, ATMs, medical service, offices, commercial parking areas, personal care services, personal improvement services, and publishing/copying), which may be out of character with nearby residences and the surrounding residential neighborhood. The proposed zone change would not conform with the Comprehensive Plan Land Use Guide or all of the Commercial Locational Guidelines. Likewise, the current access point does not conform to the Access Management Policy. Staff informed the applicant that the site could be used as a home occupation for personal services under the current SF-5

zoning; however, restrictions for home occupations include a prohibition on employees who do not live in the residence. Surrounding neighbors have contacted staff regarding this request; all contacts have been opposed to the requested zone change. Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED. However, should the MAPC determine that this site is appropriate for NR zoning, the following Protective Overlay would be appropriate:

1. Uses permitted on the site are limited to those permitted in the “SF-5” zoning district and “Personal Improvement Service” only.
2. Before Personal Improvement Service activities may begin on the site, the applicant shall dedicate access control on 21<sup>st</sup> Street North, and shall obtain access from Belmont.
3. Before Personal Improvement Service activities may begin on the site, the applicant shall submit a site plan to be approved by Planning Staff. The site plan shall depict the location of off street parking, required landscaping, screening, access, existing and proposed structures.
4. Existing or new structures located on the site shall retain residential character by utilizing roof style, building materials, and colors that are compatible with homes located within the subdivision to the north, east and west of the site.
5. Commercial style lighting and light standards are prohibited.
6. The applicant shall obtain all applicable permits before providing Personal Improvement Services, and the site shall be operated in compliance with applicable codes.
7. Signage shall be restricted to that signage permitted for Home Occupations.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: North, east, and west of this site are SF-5 zoned single-family residences built in the 1950’s and 60’s. South of the site is the SF-5 zoned Wichita State University with the U overlay. Commercial zoning and development would be out of character with the surrounding residential neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: Under the current zoning, the site could continue to be used for a single-family residence and/or permitted home occupation.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request would allow all land uses permitted in NR zoning on the site. The affect on nearby residents could be increased activity, traffic, noise, trash, and light from a non-residential use.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Urban Residential”. The Urban Residential category includes all densities of residential development found within the urban municipality. This request does not conform to the Comprehensive Plan Functional Land Use Guide. This request also does not conform to the Commercial Locational Guidelines of the Comprehensive Plan, which discourage commercial “stripping” of arterials, and discourage commercial traffic on local streets. The site’s current configuration does not conform to the Access Management Policy.
5. Impact of the proposed development on community facilities: Traffic on both 21<sup>st</sup> Street N. and Belmont could increase as a result of the proposed zone change.

**MILLER STEVENS** reported that she has had received written contact from several persons including a Community Police Officer and a member of the Northeast Heights Neighborhood Association concerning this application.

**JESS MCNEELY**, Planning staff presented the staff report.

**MCNEELY** reported that District Advisory Board (DAB) I is scheduled to hear the request January 7, 2008.

**CONNIE TOMS, 2201 N. BELMONT STREET, FOUNTAIN OF YOUTH DAY SPA**, said she has been in the personal care business for five years, and that her business is licensed and regulated by the Kansas State Board of Cosmetology. She said currently they are located at the Brittany Center, but that it is a small space and very noisy. She referred to a copy of *American Spa* magazine, which featured an article about a spa located in a residence in Denver, CO. (Hand Out). She referred to the two other spas located in Wichita, Douglas Day Spa and the Body and Soul Spa, and commented that a strip mall was not a quiet environment for a spa. She said a house would allow her to offer comfort and serenity to her clients. She provided a letter of reference from one of her clients who works at Wichita State University (WSU). (Hand Out letter from Jama Challans). In addition, she provided an architectural drawing of the small wooden sign she would like to place in the yard at the property. (Hand Out). She also said she would like permission to sell retail products to her customers. She said she would also keep her three current employees. She said she did not feel her request would affect the rights of the adjacent property owners; that the spa would not create traffic congestion because they only have two to three clients at a time (on a busy day), and they will provide plenty of parking (Hand Out of proposed parking lot); and spa hours would be from 10:30 a.m. to 6:00 p.m. She commented that WSU and the church produce more traffic than her business. She finished by stating that they will not create more trash than a normal household. She commented that the property has been vacant since June 2006, and that she has looked at numerous houses in Wichita before selecting this location. She added that her business would be bringing health and wellness into the area. She said there is already heavy traffic on 21<sup>st</sup> Street, and concluded by asking the MAPC to support her requested zone change.

Responding to questions from **SHERMAN**, **TOMS** said she has lived at 2201 N. Belmont since November 11, 2007. She indicated that she wanted to relocate the spa from Brittany Center because of the noise. She added that a house provided quiet, serenity and relaxation for the services her spa offered.

**SHERMAN** asked **TOMS** if she consulted with any one about changing zoning prior to purchasing the property.

**TOMS** responded “no.”

**SHERMAN** also asked about the locations of the Douglas Day Spa (East Douglas) and the Body and Soul Spa (335 N. Hillside).

**MOSES WILLIAMS, 3809 E. 28<sup>th</sup> STREET NORTH**, said the neighborhood is opposed to the requested rezoning. He said the homes on and around Belmont Street were built in a grand manner by members of the Crestview Country Club. He said the homes have continued to be renovated and brought up to code, and that approval of this application for a business in the area would diminish the effort and upkeep of the homeowners. He said using provisions of zoning codes developed in a previous century resulted in devastation of neighborhoods such as North East Heights, which have diverse levels of housing. He said non-sanctioned activities begin to flourish, and nearby residents don't want to wait for code enforcement that may take years. He said most people just quietly moved away. He said the North East Heights Neighborhood Association (NEHNA) has quietly assumed the role of stabilizing and anchoring the neighborhood's border along 21<sup>st</sup> Street with WSU in a manner that avoids deterioration and devaluation of homes in the area. He said they have worked together with WSU and developed a sense of community. He concluded by suggesting that WSU and the NEHNA request an overlay to protect the boundary of this single-family residential neighborhood.

Responding to a question from **MARNELL**, **WILLIAMS** indicated he was representing the North East Heights Neighborhood Association.



**MAXINE BILLINGSLEY, 2200 N. BELMONT** said she has lived directly across the street from the proposed location since 1991 (16 years). She said it is a very nice neighborhood with each residential property located on ½ acre lots. She mentioned that even though she is an alumna from WSU, she and her neighbors can hardly get in and out of their properties when there are games at WSU, which is already a negative. She also mentioned that her grandchildren like to play in her front yard, and she is concerned about their safety. She said she is vehemently opposed to this request, and asked the MAPC to reject the zoning change. She added that this zone change might open up the neighborhood to unsavory types of businesses.

**CHARLES RIVERA, 2401 N. PERSHING**, said he was present to represent the Willow Lake Neighborhood Association, which includes 31 homes. He said he has lived in the area since 1984, and raised three children. He said traffic from WSU in the area is a challenge, and that they are concerned that if the business is not a success, that any alternative usage of the property may lead to deterioration of property values in the area. On behalf of the Willow Lake Neighborhood Association, he requested that the MAPC deny the zoning request.

**MARY JOE BOND, 4024 CHARRON LANE** said she has lived in the neighborhood 33 years. She said there are no businesses selling products and services in the area, and the neighborhood likes it that way. She said the area is filled with families in single-family homes, and that they are trying to keep their area safe and attractive. She mentioned the Union Mission, a facility that had been renovated, and that the shelter changed into a facility housing homeless men, and how they had men walking through the neighborhood. She commented on how facilities can change into something other than what is originally proposed. She also commented on the rezoning of the natural green area at 29<sup>th</sup> and Oliver in 1992. She said people attending events at WSU park on neighborhood streets, and that they do not want the increased traffic and parking that a business would bring to the area. She suggested moving the proposed day spa closer to WSU to the 21<sup>st</sup> Street and Oliver Street shopping center, which she said is a very quiet shopping center and a better place. The applicant made a mistake by not exploring rezoning of the location of the property before she bought it. She concluded by saying that she and the neighbors do not want a business next door to them, and that they strongly oppose the rezoning request.

**PAUL SHEETS, 2725 N. PERSHING COURT** said he sought out and purchased a home in this neighborhood just this year because he thought it was a peaceful and welcoming neighborhood for his children. He said as a family they spend time outside playing and riding bikes. He said as the traffic along 21<sup>st</sup> Street increases in the afternoon, people leaving this proposed business are going to go north on Belmont through the neighborhood. He said this would introduce strangers and strange vehicles onto the neighborhood's current peaceful streets. He said he felt safety of the neighborhood children was more important than introduction of a business that will alter the neighborhood completely.

**LORAN SCOTT, 2725 N. FOUNTAIN** said she has lived in the neighborhood 35 years, and that she is opposed to breaking down the residential nature of the neighborhood. She said that this is not an ideal business site at all; that location of a business at this site was not in the best interest of the neighborhood; and that the neighborhood was opposed to this zoning request. She recommended that the MAPC vote against this request.

**WARD JEWELL, 2266 N. BELMONT** said he was opposed to the rezoning request for the reasons already stated. He also mentioned the sound levels when there are basketball, baseball and football games at WSU.

**PATSY DOWDY, 2201 N. BELMONT, FOUNTAIN YOUTH DAY SPA** said a home would provide a serene environment for their clientele. She also mentioned that they would not be adding noise or congestion to the neighborhood. She urged the MAPC to support the applicant's rezone request.

**CONNIE TOMS** stated that she hadn't realized that her proposal bothered so many people. She said she had no plans on changing the business, and that it would not create any more traffic in the area than a

normal household with three to four cars. She also mentioned that any clientele would use 21<sup>st</sup> Street. She concluded by stating that she didn't see a problem.

**SHERMAN** commented that he wished the applicant had done "due diligence" before she purchased the home for location of a business.

**MOTION:** To deny, subject to staff recommendation.

**SHERMAN** moved, **DOWNING** seconded the motion, and it carried (13-1).

**GISICK** – No.

**SUBSTITUTE MOTION:** To approve subject to a Protective Overlay.

**GISICK** moved, **JOHNSON** seconded the motion, and it failed (12-2).

**ANDERSON, BISHOP, DENNIS, DOWNING, HENTZEN, HILLMAN, MARNELL, MCKAY, MILLER STEVENS, MITCHELL, SHERMAN and VAN FLEET** – No.

**GISICK** commented that these types of areas with heavy traffic, noise, etc. are hard to sell for residential use and that he thinks a spa type of enterprise would fit into the area.

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7. **Case No.: ZON2007-62** – Scott Hall and David Murfin (owner/applicant), Baughman Company, PA, c/o Philip Meyer (agent) Request City zone change from "GC" General Commercial & "SF-5" Single-family Residential to "LI" Limited Industrial on property described as;

Even Lots 2 through 24, inclusive, Block 1, Washington Avenue Addition to the City of Wichita, Kansas, Sedgwick County, Kansas, TOGETHER with all of the vacated alley (Ordinance No. 5358) abutting said Lots on the west. Generally located East of Washington Avenue, on the northwest corner of 13th Street North & Wabash Avenue.

**BACKGROUND:** The application area is developed with manufacturing uses within a 1962 building. Approximately 50% of the applicant's property is zoned "LI" Limited Industrial. The application area is a portion of the applicant's property zoned "SF-5" Single-family Residential and "GC" General Commercial. The applicant requests a zone change to have one zoning district on their property, and to conform the zoning to the current manufacturing land use.

Properties north and west of the site are zoned LI and developed with warehousing. South of the site, across 13<sup>th</sup> Street N. is a mixture of GC and LI zoning and warehousing/office uses. East of the site is an SF-5 zoned city park.

**CASE HISTORY:** The site was platted as even Lots 2-24 and the vacated alley abutting on the west of the lots, Block 1 of the Washington Avenue Addition in 1885.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"LI"	Warehousing
SOUTH:	"LI", "GC"	Warehousing, office
EAST:	"SF-5"	Park
WEST:	"LI"	Manufacturing

**PUBLIC SERVICES:** 13<sup>th</sup> Street N. is a paved 4-lane section-line arterial street with a 60-foot right-of-way at this location. Wabash is a paved 2-lane local street with a 60-foot right-of-way at this location. All normal utilities are available at the site.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Employment/Industry Center.”

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Properties north and west of the site are zoned LI and developed with warehousing. South of the site, across 13<sup>th</sup> Street N. is a mixture of GC and LI zoning and warehousing/office uses. East of the site is an SF-5 zoned city park.
2. The suitability of the subject property for the uses to which it has been restricted: The current manufacturing use on the site does not conform to the existing zoning; the existing zoning is not suitable for the site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is currently used for manufacturing. The zone change will not change the uses on the site, and will therefore have no change in affects on nearby property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this site as appropriate for “Employment/Industry Center.”
5. Impact of the proposed development on community facilities: The proposed zone change will not change will not change the use of the site, and will therefore have no additional impact on community facilities.

**JESS MCNEELY**, Planning staff presented the staff report.

**MOTION:** To approve subject to staff recommendation.

**MCKAY** moved, **SHERMAN** seconded the motion, and it carried (14-0).

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8. **Case No.: ZON2007-63** - Amanda Matthews (Owner/Applicant) Request County zone change from "RR" Rural Residential to "GC" General Commercial on property described as;

The East 127 feet of the West 739 feet of the North 470 feet of the Northwest Quarter of Section 35, Township 28, Range 1 West of the 6th P.M., Sedgwick County, Kansas. General Location East of Hoover Road, on the south side of 63rd Street South.

**BACKGROUND:** The applicant is requesting that a 1.27-acre tract of property zoned “RR,” Rural Residential be rezoned “GC,” General Commercial for vehicle storage. The application area (5407 W. 63<sup>rd</sup> St. S.) is located southeast of the intersection of S. Hoover Rd. and W. 63<sup>rd</sup> St. S. A rezone to GC would open up the property to all uses allowed within the GC zone district, which includes a broad range of office, retail and commercial uses that are significantly more intense than uses permitted in the RR zone district. For this particular application the only GC use needed would be “vehicle storage yard.” The subject site is currently developed with a single-family residence, a legal use within the RR zone

district. Currently the applicant is using the site for their residence and to park four “party buses,” which, according to county code enforcement, is considered a vehicle storage yard, an illegal use within the RR zone district.

According to the “Unified Zoning Code,” a vehicle storage yard is defined as keeping outside of an enclosed building for more than 72 consecutive hours of one or more motor vehicles (except inoperable vehicles), boats, trailers, or unoccupied recreational vehicles. The term “vehicle storage yard” does not include “wrecking/salvage yard.”

Currently, the RR zoning development standards require a 30-foot front setback, 25-foot rear setback and 20-foot side setbacks. Also, along with the residential use within the RR zone, there are no requirements for screening. Rezoning the property to GC would reduce the required setbacks that are required in the RR zone. The GC zoning development standards require a 20-foot front setback, which could be reduced pursuant to Section III-E.2.e (5) of the UZC, no rear setback and no side setback. With a possible rezone to GC, the vehicle storage yard use would trigger compliance to the screening requirements as stated in the UZC.

The Sedgwick County Sign Code allows 20 different types of signage in the GC district, including billboards. Due to the location of the site, no billboards would be permitted on this site. Up to 260 square feet of signage would be allowed on this site with GC zoning.

Access to the site is off of 63<sup>rd</sup> Street South. The site is currently served by a septic system and water service is provided through a well. Both the well and the septic system are permitted through the Kansas Department of Health and Environment.

The application area is located in a largely rural area. There is a single-family residence to the east and a non-conforming duplex to the west. To the south is open farmland and to the north is a single-family residence and open farmland. All of those properties are zoned “RR,” Rural Residential. In the larger area surrounding the application area there are agricultural uses, large lot residences, warehousing, a grain elevator, and a chemical manufacture. The lot located at the southeast corner of 63<sup>rd</sup> Street South and South Hoover Road is zoned GC, and is undeveloped and owned by Occidental Chemical Corp.

#### **CASE HISTORY:**

The subject site is currently unplatted.

#### **ADJACENT ZONING AND LAND USE:**

NORTH:	“RR“	Rural Residential	Farmland
SOUTH:	“RR “	Rural Residential	Farmland
EAST:	“RR “	Rural Residential	Single-family Residence
WEST:	“RR”	Rural Residential	Duplex Residence

**PUBLIC SERVICES:** Public sewer is not available. An on-site septic is in use. An on-site water well is in use. 63<sup>rd</sup> Street South is a two-lane, un-paved county road and S. Hoover Rd., just west of the subject site, is a two-lane, paved collector street. Neither road has traffic counts in this area.

**CONFORMANCE TO PLANS/POLICIES:** The application area is located within the City of Haysville’s “zoning area of influence,” and their planning commission will hear this case on December 13, 2007.

The application area is located in an area designated by the 2030 Urban Growth Area map as the “rural functional land use category.” This category includes land located outside any cities’ 2030 urban growth areas. Land so designated is intended to accommodate agricultural uses, rural based uses that are no more offensive than agricultural uses, and larger residential exurban lots, typically two acres or larger with provision for individual or community water and sewer services.

Comprehensive Plan commercial and office location guidelines state that: commercial sites should be encouraged to locate near arterial streets or major thoroughfares, and commercial development should have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses.

The location of major commercial uses should be coordinated with mass transit routes, high-density residential, employment and other intensive uses. It is recommended that commercial uses be located in compact clusters or nodes versus extended strip developments and the traffic generated by a commercial use should not feed directly onto local residential streets.

Commercial uses that are not located in planned centers or nodes (including large free-standing buildings, auto-related and non-retail uses) should be guided to other appropriate areas such as: the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All properties immediately surrounding the application area are zoned "RR," Rural Residential. The property to the north consists of farmsteads and agricultural land; land immediately south is also agricultural land. Property to the west is zoned RR and is developed with a non-conforming duplex, which was built before the adoption of the Unified Zoning Code, property further west is zoned GC, and is undeveloped, and property to the east is developed with a single-family residence. This is a rural area where uses are located on large tracts of land when compared to urban standards and where all uses are of low intensity or are appropriate in a rural setting.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR," Rural Residential and is developed with a single-family residence. This district permits a limited range of low intensity residential, commercial, public and industrial uses, with the focus more towards large lot residential uses and agricultural uses. The site can continue to be used as currently developed.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: This is a predominately rural area. However, less than 400-feet west of the subject site is GC zoning, right at the intersection of 63<sup>rd</sup> St. and Hoover. Approval of GC zoning would introduce another zoning district that is inappropriate at this location, and would only lead to additional inappropriate requests. What this application has in its favor is that it is near another GC zoned property and also near "LI", Limited Industrial and "GI", General Industrial zoning, just west of Hoover Road. The LI and GI zones are developed with a grain elevators, warehouses, chemical plant and other high impact uses. The proposal to rezone this property is primarily proposed in an effort to solve the applicant's apparent illegal use of the site. Vehicle storage, the classification for this specific use, can generate traffic, noise, and light. The storage of the four party buses appears to be a small operation, but once the GC zoning is approved the applicant does not propose additional restrictions.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial of the request would cause the applicant to remove the buses currently stored on the property, because it is currently an illegal use within the current zoning. From the public's perspective, a denial would preserve the consistency of this area's rural zoning and character. Approval may offer the applicant a chance at greater economic gain

but would compromise the county's comprehensive land use goals and could lead to additional inappropriate requests.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The application area is located in an area designated by the 2030 Urban Growth Area map as the "rural functional land use category." This category includes land located outside any cities' 2030 urban growth areas. Land so designated is intended to accommodate agricultural uses, rural based uses that are no more offensive than agricultural uses, and larger residential exurban lots, typically two acres or larger with provision for individual or community water and sewer services. Comprehensive Plan commercial and office location guidelines state that: commercial sites should be encouraged to locate near arterial streets or major thoroughfares, and commercial development should have site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses. The location of major commercial uses should be coordinated with mass transit routes, high-density residential, employment and other intensive uses. It is recommended that commercial uses be located in compact clusters or nodes versus extended strip developments and the traffic generated by a commercial use should not feed directly onto local residential streets. Commercial uses that are not located in planned centers or nodes (including large free standing buildings, auto-related and non-retail uses) should be guided to other appropriate areas such as: the CBD fringe; segments of Kellogg; established areas of similar development; and, areas where traffic patterns, surrounding land uses and utilities can support such development.
6. Impact of the proposed development on community facilities: Sewer and water services are provided privately. The proposed use would significantly increase bus traffic on an unpaved road. The site is currently served by the Sedgwick County Fire Department, Emergency Management Services and County Sheriff services.

However if the Planning Commission feels the request is appropriate, the application should be subject to the following Protective Overlay conditions:

- A. Uses permitted on the site are limited to those permitted in the "RR", Rural Residential zoning district; and
- B. The only "GC," General Commercial use permitted on this site is "Vehicle Storage Yard." Permitted "Vehicle Storage Yard" uses as defined in Section II-B.14 (j) in the Unified Zoning Code.
- C. Property development standards for the "RR," Rural Residential zone district will be followed for the subject site.
- D. Screening requirements per the Unified Zoning Code will be required for the non-residential use.
- E. A site plan will be required showing the location of existing buildings, setbacks, screening and the location of the vehicle storage on the subject site. The site shall be developed and utilized in general conformance with the site plan.
- F. No off-site, portable, variable or electronic message signs (LED) are permitted.
- G. There is to be no pick-up, drop-off, or gathering of people/passengers at the subject site. The site is to only be used for the storage/parking of the buses, "Vehicle Storage Yard."
- H. Any violation of the conditions of approval shall render the conditional use permit null and void.

**DERRICK SLOCUM**, Planning staff presented the staff report.

**SLOCUM** reported that the Hayesville Planning Commission voted 7-1 to deny the request (per staff recommendation).

**TAPE 2, SIDE 1**

Responding to a question from **HENTZEN**, **SLOCUM** stated that currently, there were four buses parked on the property.

**MILLER STEVENS** asked if there was a limit on the number of buses that could be parked at the location? She said it seemed like there would be more buses parked there as the business grows.

**SLOCUM** commented that the regulation concerning vehicle storage does not specify a specific number.

**AMANDA MATHEWS, 5407 W. 63<sup>rd</sup> STREET SOUTH**, stated that the site is used for storage of the “party” buses for their business but that customers do not go in and out of the property. She also indicated that small maintenance items were performed on the buses at the site. She said references to excessive noise, lights, traffic, etc., were simply not true. She commented that this location was her home. She said if the business outgrows the property, they would move to another building or get a warehouse. She said this is a small business that they operate out of their home, and that they feel this property allows them to do that.

**DALLAS ROSE, 5407 W. 63<sup>rd</sup> STREET SOUTH** stated that storing buses at the residence does not increase traffic, noise or lighting. He said this was a private home, and that they would be willing to cover the buses with a building if that would be beneficial to the zoning process. He commented that the purpose of the “party buses” was to keep drunk drivers off the road. He said they are not opposed to imposition of a “storage only” restriction, because that is all they intend to do at the site.

Responding to a question from **HILLMAN** concerning the Hayesville Planning Commission Meeting, **ROSE** indicated they were not aware of the meeting.

**DAVID CHADD, 5310 W. 63<sup>rd</sup> STREET SOUTH** said he has lived in the area for 15 years. He said the noise the buses might create is nothing compared to the grain trucks and other trucks that frequent the area. He said this family keeps up the property, and added that it is tough to get neighbors in the area because of contamination.

**ROSE** mentioned that a Mrs. Ledbetter told him she misunderstood the proposal and thought the whole neighborhood was being rezoned. He said she told him it was okay with her if they rezoned their property.

Responding to a question from **MCKAY** concerning business growth projections, **ROSE** said the maximum bus storage would be five or six at this location. He said if the business got larger than that, they would move anyway.

**CHAIRMAN MITCHELL** asked staff if they could include a limit of five buses in the protective overlay?

**DIRECTOR SCHLEGEL** responded that the MAPC could add whatever they wanted.

Responding to a question from **JOHNSON** concerning what prompted the application, **SLOCUM** reported that County Code Enforcement received a complaint about the operation.

**JOHNSON** said he knew the area really well. He commented on the ground contamination, and the fact that someone was still living there. He said he was surprised that the application was being reviewed by the MAPC.

**MOTION:** To approve subject to staff recommendation, with the protective overlay.

**JOHNSON** moved, **HILLMAN** seconded the motion, and it carried (13-1).  
**BISHOP** – No.

**BISHOP** said she could support the motion to approve the application if the protective overlay had a cap on the number of buses allowed at the site, but couldn't support the motion without a cap.

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9. **Case No.: CON2007-43** - City of Wichita, c/o Norman Jakovac (applicant), Haney & Associates, P.A., Attn: Joe Perez (agent) Request County Conditional Use for Safety Service and Community Assembly on property described as;

Lot 23, Except the East 10 feet for Road, Spurrier Gardens Addition, Sedgwick County, Kansas.  
Generally located South of Kinkaid and west of Greenwich (2255 S Greenwich).

**BACKGROUND:** The applicant is requesting a Conditional Use to allow the construction of a fire station on a 1.66-acre platted tract located north of East Pawnee Avenue and west of South Greenwich Road. The subject property, located in the county, is zoned "SF-20" Single-Family Residential. A fire station is included in the Unified Zoning Code definition of Safety Service, which is permitted, with a conditional use, in the "SF-20," Single-family Residential zone and more restrictive zoning districts, but would be permitted by right in less restrictive zoning districts.

The subject property is currently undeveloped. The applicant proposes to improve the existing property and redevelop the site with a fire station per the attached site plan. The site plan shows the fire station located approximately in the center of the site, with a parking area located south and west of the fire station. One access drive to Kinkaid and one to Greenwich are shown, with the eastern access drive onto Greenwich to be used for fire trucks leaving the station and the northern access drive onto Kinkaid to be used when fire trucks return to the station. A landscaped street yard will need to be provided along the Kinkaid and Greenwich frontage, and landscaped buffer yards will need to be provided along the west and south property lines. The specific landscape materials to be used in the landscaped yards will be determined through a separate landscape plan to be approved by the Planning Director and the Zoning Administrator.

This particular site is currently located within the county. It is usually common practice that a city owned property used for city services be annexed into the city, even if the site in question would cause an island annexation (K.S.A. 12-520a(2).) However, since this particular site is located within an improvement district, annexation of the subject site cannot occur at this time (K.S.A. 12-520c.)

The character of the surrounding area is dominated by single-family residential uses located along South Greenwich Road. The properties located north, south, east and west of the subject property, even across Kinkaid and Greenwich are zoned "SF-20" Single-family Residential and are all developed with single-family residences. The properties located farther south of the subject property, at the intersection of Pawnee and Greenwich, are zoned "LC" Limited Commercial are generally developed with single-family residences.

**CASE HISTORY:** The subject property is platted as Lot 23 and 24, except the east 10 feet for Road, Spurrier Gardens Addition, (SUB2000-90) which was recorded August 1, 2001.



**ADJACENT ZONING AND LAND USE:**

NORTH:	“SF-20” Single Family Residential	Single-Family Residence
EAST:	“SF-20” Single Family Residential	Single-Family Residence
SOUTH:	“SF-20” Single Family Residential	Single-Family Residence
WEST:	“SF-20” Single Family Residential	Single-Family Residence

**PUBLIC SERVICES:** The subject property has frontage along S. Greenwich, a minor arterial, and Kinkaid Ave., a paved two lane local street. In this location, S. Greenwich is a two-lane arterial street with no current traffic volume counts. The proposed use will decrease the potential traffic generation by the subject property, and many of the trips generated by the subject property will be by emergency vehicles for which other vehicles must yield. Public water and sewer service are currently available to the subject property.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as “Urban Development Mix” within the Wichita 2030 Urban Growth Area. The proposed development of the subject property with a fire station is consistent with the “Urban Development Mix” land use designation. “Urban Development Mix” is defined as areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category. However, there is a strong likelihood that concentrations and pockets of Major Institutional Uses, Local Commercial Uses and Park and Open Space Uses will ultimately be developed within this area as well, based upon market driven location factors.

The fire department has stated that it is a challenge to provide service in growth areas especially when service responsibly changes with that growth. Both fire departments continually evaluate opportunities for service collaboration in or near transitional service areas, especially when opportunities align with the fire department’s combined service goals (co-location as one example). The Fire Station Location Study (2000) was produced to evaluate the level of service provided by the current set of stations and deployment of resources, and whether the number and location of stations, the mix of units and their staffing is most cost-effective. The study considered alternatives for the future in light of the anticipated continued growth in population and area. According to this study, there were no plans for a fire station to be located at the subject site. Since the study was completed (using information from 1999,) new information and technology have been considered when re-evaluating service requirements. The reason for the new fire station location is to improve response performance; the location was chosen to address current and future needs for the area in a manner consistent with service goals.

**RECOMMENDATION:** Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The site shall be developed in general conformance with the approved site plan.
2. The site shall be developed in general conformance with the approved building elevation and design.
3. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
4. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is dominated by single-family residential uses. The surrounding property in the area is zoned “SF-20,” Single-family Residential. The proposed use of the subject property as a fire station is compatible with the zoning, with a conditional use permit.

2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned “SF-20” Single-Family Residential. The subject property is suitable for single-family residential uses, and currently, the subject property is undeveloped. However, there was a residence located on this site at one time, but now all that remains is a foundation.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting the lower intensity residential area surrounding the site.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as “Urban Development Mix” within the Wichita 2030 Urban Growth Area. The proposed development of the subject property with a fire station is consistent with the “Urban Development Mix” land use designation. “Urban Development Mix” is defined as areas of land that will likely be developed or redeveloped within the next 30 years with uses predominately found in the Urban Residential Use category. However, there is a strong likelihood that concentrations and pockets of Major Institutional Uses, Local Commercial Uses and Park and Open Space Uses will ultimately be developed within this area as well, based upon market driven location factors.

In response to staff questions, the fire department has stated that it is a challenge to provide service in growth areas especially when service responsibly changes with that growth. Both fire departments continually evaluate opportunities for service collaboration in or near transitional service areas, especially when opportunities align with the fire department(s) combined service goals (co-location as one example). The Fire Station Location Study (2000) was produced to evaluate the level of service provided by the current set of stations and deployment of resources, and whether the number and location of stations, the mix of units and their staffing is most cost-effective. The study considered alternatives for the future in light of the anticipated continued growth in population and area. According to this study, there were no plans for a fire station to be located at the subject site. Since the study was completed (using information from 1999,) new information and technology have been considered when re-evaluating service requirements. The reason for the new fire station location is to improve response performance; the location was chosen to address current and future needs for the area in a manner consistent with service goals.

5. Impact of the proposed development on community facilities: With a new fire station in the area, this will improve response times to fire/medical calls in the surrounding area, thus lower previous response times.

**DERRICK SLOCUM**, Planning staff presented the staff report.

**HILLMAN** commented on the amount of public parking at the site (22-24 stalls), and asked if a community center or other facility was going to be located with the Fire Station?

**SLOCUM** said he would let the applicant answer that question, since they provided the site plan.

Responding to **MILLER STEVENS’** question concerning the right-of-way section line, **MILLER** explained that if the 60-foot standard weren’t present, a dedication would be necessary.

**CHAIRMAN MICHTELL** commented that issue would be taken into account during platting.

Responding to a question from **BISHOP** concerning the improvement district, **SLOCUM** indicated that was a Minneha Township Improvement District and that he was not sure of the specific purpose/project.

**MICHAEL RUDD, DEPUTY FIRE CHIEF, WICHITA FIRE DEPARTMENT**, said he was present to answer any questions. Responding to **HILLMAN** regarding the parking, he indicated that the operation center could also be used as a meeting room.

**JIM WEBER, DEPUTY DIRECTOR, SEDGWICK COUNTY PUBLIC WORKS**, indicated that when the two lots were platted 40-foot was probably the standard right of way at the time. He said the building permit could be issued without additional right-of-way dedication, since the lots were already platted.

**MOTION:** To approve subject to staff recommendation and adding enough footage to meet the 60-foot right-of-way requirement.

**MCKAY** moved, **HILLMAN** seconded the motion, and it carried (14-0).

**MARNELL** said he couldn't believe the City would object to giving up right-of-way, especially considering how many times they take it from other people.

**DENNIS** out @3:40 p.m.

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- 10. Case No.: CON2007-44** - Richard J. Gronniger (owner/applicant), Robert J. Kaplan (agent)  
Request Conditional use to expand existing sand and gravel operation on property described as;

That part of the Southwest Quarter of Section 4, Twp. 26-South, Range 1 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas described as: The West half of said Southwest Quarter, EXCEPT the South 220 feet of the North 545 feet of the West 240 feet thereof, and EXCEPT beginning at the Southwest corner of said Southwest Quarter; thence on an assumed bearing of North 00 degrees 27 minutes 48 seconds East, 120 feet along the West line of said Southwest Quarter; thence North 78 degrees 00 minutes 34 seconds East, 1,364.80 feet to the East line of said West half; thence South 00 degrees 22 minutes 58 seconds West, 400 feet to the Southeast corner of said W half; thence South 89 degrees 50 minutes 52 seconds West, 1,333.33 feet to the point of beginning. Generally located West of Ridge Road and 73rd Street North, on the southeast corner of 73<sup>rd</sup> Street North and 87<sup>th</sup> Street West.

**BACKGROUND:** The applicant is requesting a Conditional Use to allow an 18-acre expansion of an existing unplatted 17.388-acre sand and gravel extraction operation; CON2003-32. The proposed expansion would extend the existing operation north, towards 73<sup>rd</sup> Street North. The proposed expansion would increase the 15-acre sandpit lake (final depth of 40-feet), by 18-acres. The applicant is not asking for an extension of CON2003-32's approved operation time of 8-years. The subject property and the existing sand pit are zoned "RR" Rural Residential, which permits consideration of a Conditional Use.

CON2007-44's site plan shows CON2003-32's existing operational area which includes the existing plant site, the scale, the existing sand pit lake and the proposed expansion of it, fencing, a gate at the entrance to the operational site, a gate at the entrance of access road onto 73<sup>rd</sup> Street North and existing tree lines. The site plan shows a 100-foot setback on the south side of the site and 150-foot setbacks on the east and west sides of the site. The site plan does not show a setback on the north side of the site, which would require a minimum of a 50-foot setback. There is no dimension control on the site plan, and it is needed. The applicant needs to identify the existing and proposed fence in reference to compliance with CON2005-0007, which allowed a 5-strand barbed wire instead of chain link. The site plan does not show any existing or proposed signs, which must be shown on the plan for consideration or addressed at a latter date as a variance...**must apply for an amendment to the Conditional Use no variance...** The site plan

does not show a house (1900), owned by the applicant and located just north of the expanded site. The applicant has not provided a redevelopment plan, but CON2003-32 one (1) single-family residence on the site, after extraction operations ended.

The area is primarily agricultural in use with scattered large tract/lot single-family residences, including 15-18 houses on either side of the site along 73<sup>rd</sup> Street North. Non-residential development includes a contractor's yard northeast of the site and two church campgrounds west of the site, both along 73<sup>rd</sup> Street. Access onto the site will be off of 73<sup>rd</sup> Street, a non-section line sand road maintained by Park Township with contractual assistance from the applicant. Sedgwick County OCI has received complaints about the condition of the road and dust off of, as generated by trucks coming and going to the existing sand pit. The merging of the Arkansas River and a section of the Wichita – Valley Center Floodway forms the triangle shaped south boundary of the area. The site is located within this triangle of merging river and man-made drainage canal. There are at least two other spent sandpits (CU-277 & CU-268) and one approved sandpit (CON2006-13, not in operation) located within approximately ½-mile of the site, with all of them having or will be directing their sand trucks to Ridge Road.

The subject property appears to be entirely in the Arkansas River 100-year flood boundary, therefore, the Sedgwick County Public Works Department will require a drainage plan, including easements, reserves, or covenants (as applicable) to ensure that the floodway is properly maintained. Sedgwick County Public Works Department will also require that the applicant apply for and receive an approved Flood Plain Development Permit, which will partially address the County's concerns about obstructions in the flood plain, such as equipment and aggregate piles. This permit will also require the applicant to include in his site plan how untreated storm water will be excluded from the proposed sand and gravel pit and confirmation that the site is a minimum of 1,000-feet from the levee along the Arkansas River. The County is also requiring the applicant comply with State Statute 24-126, "Levee Law" which addresses stockpiling on the property, this will be obtained through the Division of Water Resources, located in Topeka. The subject property also is located within the Equus Beds Groundwater Management District #2. The applicant must apply for water rights through the Division of Water Resources, located in Topeka. All County and State required permits and plans must be approved prior to the site operating for sand and gravel extraction.

**CASE HISTORY:** The site is unplatted. The site is proposed to be an expansion of CON2003-32, a Conditional Use for a sand and gravel extraction operation that was approved September 18, 2003. CON2003-32 is permitted to operate for 8-years. CON2005-0007 amended CON2003-32, to allow a five-strand barbed wire fence instead of the required chain link fence. CON2005-0007 was approved June 1, 2005.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"RR"	agriculture, scattered large tract single-family, contractor's yard
SOUTH:	"RR"	agriculture, Arkansas River, sand pits
EAST:	"RR"	agriculture, scattered large tract single-family, drainage
WEST:	"RR"	scattered large tract single-family, church campgrounds

**PUBLIC SERVICES:** This site has access to 73<sup>rd</sup> Street North, a sand, non-section line, Park Township road. 73<sup>rd</sup> Street North intersects Ridge Road, a two lane paved County Highway, ¾ of a mile east of the site. There are no current traffic volume figures available for either road. The "2030 Transportation Plan" estimates that the traffic volume on Ridge Road, between 77<sup>th</sup> Street North and 61<sup>st</sup> Street North will be approximately 5,500 vehicles per day in 2030. Municipal water and sewer services are not currently available to serve this site. Use of the site for sand and gravel extraction can be supported by on-site water and sewer service. The site is located outside the 30-year urban service area and all small city growth areas.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide classifies this area as "Rural." This classification encompasses land outside the 2030 urban growth areas for

Wichita and the small cities. The “Rural” classification is intended to accommodate agricultural and rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County, and predominately large lot residential sites or subdivisions with provisions for individual, or community water and sewer services. The Wichita/Sedgwick County Comprehensive Plan indicates that industrial uses in rural areas should be limited to those that are agriculturally oriented, dependent upon a natural resource, or part of an appropriate expansion of an existing industrial use. Sand and gravel extraction would be dependent on a natural resource. Sand and gravel extraction operations are a common development in areas of rural Sedgwick County that are in close proximity to the Arkansas River.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The extraction operation on the site shall proceed in accordance with the approved site and redevelopment plans (including any modifications to limitations on the scope of excavations required by other regulating agencies), and be subject to the supplementary use regulations found in the Unified Zoning Code at Article III, Section III-D.6.gg, unless specifically modified by conditions contained in this conditional use.
2. If limitations on the scope of excavation are required after final approval, the applicant shall provide a revised site plan depicting those restrictions. The perimeter of the lake excavation shall conform to the approximate size and shape indicated on the approved plan. The applicant shall provide a date when the 18-acre expansion of the original site will begin to be used as part of the sand and gravel extraction operation.
3. The applicant will submit a revised site/operational plan that will include (besides that which is shown on the submitted site plan considered by the MAPC) dimension control and shows a minimum of a 50-foot setback on the north end of the expanded site. As part of the required operational plan, the applicant shall combine the site with CON2000-12’s site and show the combined areas as two distinct areas for the purpose of showing phased excavation over time. The plan would show which area was to be excavated and at what time. The applicant will also submit a development showing the use of the property after extraction operations have ceased.
4. Fencing shall be what was approved in CON2005-0007.
5. Signage shall be as allowed by the Sedgwick County Sign Code
6. The approval of the Conditional Use is for a period not to exceed the 8-years that were approved for CON2003-32. Subject operation is to cease after that period of time with all equipment and materials associated with the operation removed from the premises.
7. The applicant shall pave 73<sup>rd</sup> Street North from the entrance of the site to Ridge Road, as determined by Sedgwick County Public Works, prior to the commencement of the expansion of the sand and gravel operation.
8. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to the County’s legal counsel and Public Works, prior to the commencement of any sand and gravel extraction operation, providing an area for temporary detention storage of drainage water drainage.
9. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding immediate area is primarily agricultural with scattered large tract single-family residential all zoned “RR” Rural Residential. The proposed expansion of the existing sand and gravel at this location is consistent with the zoning, uses, and character of the area. There are at least 3 other gravel and sand extraction operations, spent or approved from the Arkansas River to 77<sup>th</sup> Street North, west of Ridge Road.

2. The suitability of the subject property for the uses to which it has been restricted: The “RR” Rural Residential zoning designation of the subject property permits sand and gravel extraction upon approval of a Conditional Use. Location of the site within the Arkansas River Flood Plain and the Equus Bed will require the applicant to meet County and State requirements for flood plain development and development over the Equus Bed.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on nearby property should be minimized by the various setback requirements and operational restrictions required as conditions of approval. Paving of 73rd Street North, in consideration to the volume of heavy truck traffic on the street will address the accelerated disrepair of 73<sup>rd</sup> Street North caused by this traffic, as noted by complaints received by County OCI.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita/Sedgwick County Comprehensive Plan indicates that industrial type uses such as sand and gravel extraction are appropriate in rural areas where the natural resource is located. The Land Use Guide of the Wichita/Sedgwick County Comprehensive Plan identifies this area as appropriate for “Rural Residential” development.
5. Impact of the proposed development on community facilities: The expansion of this sand and gravel extraction operation will continue to have a significant impact on community facilities, via the impact on the flood plain, the Equus bed and the impact of the heavy truck traffic on 73<sup>rd</sup> Street North, a non-section line sand road maintained by Park Township with a contract the applicant.

**BILL LONGNECKER**, Planning staff presented the staff report.

Responding to a question from **BISHOP, LONGNECKER** indicated that the location was outside of Valley Center’s Area of Zoning Influence.

**MILLER STEVENS** asked about berming around the pond area and flooding in the area.

**LONGNECKER** said since the applicant would be required to submit a drainage study, which would include the existing site and the proposed expanded site, as the proposal is more than doubling the original size of the site. The applicant must also observe the Levee Law and address the affects on the Equus beds and other issues involved in the permitting process

**MARNELL** mentioned that when the original Conditional Use was granted he believed the applicant had agreed to maintain the road for Park Township. He also asked about the levy on the east side of the road.

**LONGNECKER** said he the applicant had an agreement for maintaining the road with the township, but that staff was requesting that the road, 73<sup>rd</sup> Street North, be paved as the county had received numerous complaints about the condition of the road and dust off the road. There was a question concerning the line of vision of on-coming traffic and whether that was a public safety issue, in regards to vehicles coming up and over the levee, located to the east of the site. He said that issue was addressed and that public safety was not compromised.

**BOB KAPLAN, 430 NORTH MARKET, AGENT FOR APPLICANT**, referred to the paving requirement in Item #7 under “Recommendation” in the Staff Report, saying that since the applicant is not asking for any extension of time and there was three years and a few months left on the Conditional Use, they did not feel that the paving condition was reasonable or practical. He said that they have offered a number of alternative road surfaces including asphalt millings, calcium chloride and sand with water treatment. He also clarified that the applicant does not maintain the road, but supplies the materials for the township, which does the actual road maintenance. He provided a hand out which was the “Road

Improvement and Maintenance Agreement” with Park Township. He commented that it was Park Township’s responsibility to keep sand on the road. He added that it was a much better road now than when the sand pit operation opened. He acknowledged that dust is a problem, and said they are working on that issue. He added that they do not want issues with the neighbors. He concluded by asking that this application be approved subject to resolution of item #7, between staff and the applicant. He said if staff, the applicant and the county cannot come up with alternative to a hard surface road that everyone would be happy with, the Board of County Commissioners will resolve the issue.

**NORMAN HEIN, 8118 W. 73<sup>rd</sup> STREET NORTH**, said he owned property in the area, and that he wanted to emphasize the need for dust control. He said the dust created by truck traffic and the wind from the south is non-stop six days a week from sun up to sun down. He said visibility is less than 150 feet, and if you are outside for even a little while you get sand in your eyes and grit in your mouth. He said you can’t enjoy outside activities on those days, and that they have hired extra help to clean the house. He added that it couldn’t be healthy to constantly be breathing all that dust. He commented that the dust is so bad that his vehicle was nearly run over by a truck at 73<sup>rd</sup> Street and Ridge. He concluded by saying that he used to sing with the symphony but hasn’t sang for a number of years because the dust has caused him to have allergies. He added that a second issue is lack of drainage from the road surface after heavy rains, and trucks driving through it cause holes and water to pool in the road.

**FRANK LACY, 9555 W. 73<sup>rd</sup> STREET NORTH**, said that although the road has somewhat improved since the location of the sand pit, nothing is ever done to keep the dust down. He said he lives west of the location, and that the land is “fragile” because it is located in the Flood Plain. He talked about recent flooding from the applicant’s sand pit pond that came through the back field onto neighbor’s property. He referred to the map of the area, and said the flooding washed a gully at the west end of the pond as big as the conference room and twice as long. He commented that any lake needs a spillway. He concluded by stating that although the road has improved, it needs to be paved. He said he has seen as many as eight dump trucks on the road at one time.

**NILA LACY, 9555 W. 73<sup>rd</sup> STREET NORTH**, said they live west of the site, north of the island in the river and the Flood Plain. She said the lake creates flooding problems. She requested that the road be paved. She said she knows of two vehicles that have had their windshields broken by rocks when traveling along the road. She said people have also been overcome by dust and that you cannot see the road that is why the road needs to have a hard surface.

**JIM WEBER, DEPUTY DIRECTOR, SEDGWICK COUNTY PUBLIC WORKS**, stated that in 2003 the County agreed to experiment and leave 73<sup>rd</sup> Street as a gravel road. He said it is obvious that experiment has failed. He said there have been several requests to pave the road, and mentioned dust and other maintenance problems.

## **TAPE 2, SIDE 2**

He specifically mentioned that the County does not want asphalt millings in this area and said they are recommending that this road be paved; however, they were willing look at other options with the applicant.

**BOB KAPLAN** suggested another alternative and that was to defer the application for 30 days so that the concerned parties can discuss alternative suggestions. He said it was not practical for the applicant to pave the road “to County standards,” at a cost of approximately \$350,000, for the 3-½ years that was left on the conditional use. He said builders’ need sand and sand pits need to be located where there is sand. He said he believed they could work out alternatives to paving the road. He said the MAPC could approve the application and send it to the Board of County Commissioners for final determination or they could defer it.

**MOTION:** To defer until the applicant, agent and staff get issues worked out.

**MCKAY** moved, **DOWNING** seconded the motion, and it carried (13-0).

**MARNELL** said he was in favor of the motion because he would like to see the situation improve.

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- 11. Case No.: DER2007-13** - Request Amendment to the Unified Zoning Code Art. III. Sec. III-C 2.b. (1)(b) to delete the prohibition of off-site signs in nonresidential community unit plans.

**Background**

On October 4, 2007, Greg Ferris, Ferris Consulting, appeared before the Metropolitan Area Planning Commission (MAPC), and asked the MAPC to hold a hearing regarding Article III Section III-C.2.b(1)(b) of the UZC that prohibits the installation of off-site signage on property with community unit plan (CUP) zoning.

The current language in the UZC regarding off-site signage in CUP's is as follows:

- (1) **Permitted uses and structures.** The following uses and structures may be allowed as part of a nonresidential CUP:
- (a) All permitted and Conditional Uses in the zoning classification in which the development is proposed, subject to all applicable site development regulations such as, but not limited to, Supplementary Use Regulations and Special District Regulations.
  - (b) **Signs, provided that no off-site or portable signs shall be permitted.**
  - (c) Uses and structures that are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures and that do not involve operations or structures that are incompatible with the district.
  - (d) In cases where a nonresidential CUP development proposes a mixture of nonresidential and residential uses, the CUP development plan shall indicate the proposed location and general types of such uses and the method of screening and buffering.

The applicant proposes to modify subparagraph (b) to read: "Signs, provided that no ~~off-site or~~ portable signs shall be permitted." ("Signs, provided that no portable signs shall be permitted.") At the first District Advisory Board meetings the applicant revised the proposal. In addition to the language suggested above the applicant also proposes the following language to be added to the amended language suggested above: No CUP approved prior to January 30, 2008, which does not have specific language approving off-site signs or billboards, shall not allow off-site signs unless a request to allow off-site signs is a CUP amendment submitted to the Planning Department after January 30, 2008, and then approved by the Wichita City Council.

The complete proposed amendment would read as follows: "Signs, provided that no portable signs shall be permitted. No CUP approved prior to January 30, 2008, which does not have specific language approving off-site signs or billboards, shall not allow off-site signs unless a request to allow off-site signs is a CUP amendment submitted to the Planning Department after January 30, 2008, and then approved by the Wichita City Council."

**Analysis**

The intent of the community unit plan district is to provide well planned and well organized development, and to protect the public safety, convenience, health and general welfare through standards and provisions that establish proper development requirements, including signage. The character of the development should be appropriate to the neighborhood and conditions, and safeguards should be provided to ensure that the development will minimize any diminution, if any, in the value of surrounding property.



By definition, off-site signage includes billboards. (24.04.185.1.q) The UZC's prohibition against off-site signs in CUP districts has been part of the code since at least 1964. MAPC minutes from March 19, 1964, contain the following language relating to advertising signs in CUP zones: "Advertising signs, relating to the proposed development, the stores and shops and products sold therein are permitted. No billboards shall be permitted."

In addition to the above-mentioned UZC prohibition against off-site signs, many CUPs also contain language specifically prohibiting off-site and billboard signage. The Sign Code of the City of Wichita also contains the following language:

"No zoning district or zoning shall be considered for linear measurement (for a billboard or off-site sign) if it is included within an approved Community Unit Plan, Planned Unit Development, P-O Protective Overlay or Protective Overlay District except when such district specifically allows off-site billboard signs." (24.04.222.2)

"Except as permitted by Section 24.04.225 (Special Review Approval for Off-site Billboard Sign Permits), no off-site billboard signs shall be erected closer than 300 feet from a platted and residentially-zoned lot on which the primary residential structure can be legally erected or to a residential structure. This distance shall be measured from the nearest lot line of such platted and residentially zoned lot or residential structure to the closest part of the off-site billboard sign. This minimum distance may be reduced to 150 feet when any platted and residentially zoned lot or residential structure is fully screened from view of the proposed off-site billboard sign by a non-residential building. Such view shall be from the closest minimum building setback line (as established for residentially zoned lots in the Wichita-Sedgwick Unified Zoning Code) of the residentially zoned lot or residential structure." (24.04.222.4.d)

With respect to billboards in LC zoning along an arterial, a maximum of two billboards facing the same direction of travel are permitted so long as there is a minimum of 3,000 lineal feet of LC, GC or LI zoning along the designated mile. Billboards must be spaced 330 feet from another billboard facing the same direction of travel along the same street. Maximum billboard height is permitted to be up to 30 feet, but taller signs are permitted in order to maintain eight feet of clearance above a building to the bottom of the sign, but no taller than 26 feet above the roof or parapet wall; or 14 feet above the top of the railing or barrier along the traffic deck of an elevated highway. Billboards in LC zoning are limited to 300 square feet in area. One can count more intense zoning districts –GC, LI or GI- towards the lineal footage requirement.

With respect to billboards in GC, LI and GI zoning, a minimum of 500 linear feet of GC, LI or GI zoning in the designated mile is required per sign, with a maximum of five billboards permitted facing the same direction of travel along the designated mile in GC and LI while up to eight signs may be permitted in the GI. The size of billboards permitted in GC, LI and GI is 672 square feet (14x48 feet), and up to 825 square feet with extensions. Three-hundred-thirty lineal feet of separation is also required between signs. Height is as above. Property zoned LC does not count towards meeting the lineal footage requirement for signs placed in the GC, LI or GI districts.

Approval of this request will affect mostly those early CUP's that do not specifically contain a prohibition against off-site signs. Most CUPs since the early 1990s specifically prohibit off-site signage. Approval of this request would not change that fact. It would take an amendment to each individual CUP to remove that prohibition.

The sign code does not contain the same UZC prohibition regarding off-site signs; it relies upon the zoning code as the basis for this regulation. The purpose of this review of the Sign Code regulations dealing with off-site signage in CUPs is to show that the zoning code prohibition on off-site signage in

CUPs is the key regulation that ties all the other sign code provisions together dealing with off-site signage in CUPs.

### **Recommendation**

Staff is recommending that the requested code amendment be denied. Since, at least 1964, the code has provided consistent guidance with respect to off-site signage in CUPs. Approval could open up significant stretches along arterial streets (e.g. Rock Road, Greenwich Road, 21<sup>st</sup> Street or Maize Road with commercially zoned CUP land for the installation of off-site signage, including billboards or video signage where currently such signage is prohibited by code. It is staff's opinion that the community has come to rely upon that language as being a reasonable balance between the non-residential users' need for signage that provides necessary identification, direction and advertising versus the public's need to provide signage that promotes public safety, health and welfare.

**DALE MILLER**, Planning staff presented the staff report.

**MILLER** referred MAPC members to a hand out, which was alternative language on the amendment: "Signs, provided that no portable signs shall be permitted. Off-site signs in any Community Unit Plan approved prior to the effective date of this amendment may be permitted only after an amendment has been reviewed by the MAPC and approved by the appropriate governing body." He briefly reviewed background on the zoning code pertaining to this issue indicating that this restriction first appears in the code in 1964. He commented that Community Unit Plans are held to a higher standard and that the off site signage issue need to be reviewed carefully.

**BISHOP** said she was under impression that the off site sign issue was relatively new and referred to a development at Ridge Road and Maple Streets where the applicant requested two off site signs, which were approved by the MAPC but denied by the City Council.

**SCOTT KNEBEL** explained that case involved a protective overlay.

**GREG FERRIS** briefly mentioned the alternative language agreed to by staff, and commented that basically this code change will give applicants "permission to ask permission" to put a sign on a property located within a Community Unit Plan (CUP) development. He said the MAPC would still hold a public hearing and the item would still be reviewed by the City Council and DABs. He clarified that this was not a "blanket approval" and that there would still be an opportunity for the sign request to be denied. He mentioned the City requires developments of 6-acres or larger to be CUP's, which restricts a developer's ability to place billboards on the property because the billboard would become non-conforming. He said this language was very restrictive and unnecessary, when properties two, three, four and five acres in size can place a sign on the property with no public hearing process. He also mentioned that the code did not take location into consideration and added that every piece of property is different. He said billboards on highways (such as K-96) were a logical site for sign/billboard placement. He said those property owners should have the right to ask for a sign. He said right now, billboards are only allowed in four zoning classifications: Limited Commercial, General Commercial, Light Industrial and General Industrial. He said this proposal offers flexibility to landowners; that this is a property rights issue; and that each request would be "out in the open" and required to go through the public hearing process and procedure.

**GISICK** asked if CUP developers could ask for a variance?

**FERRIS** commented that applicant's would have to show a hardship, in addition to meeting five other criteria. He added that was not the purpose of the variance process.

**BISHOP** commented on the possible increase in LED billboards in the future?

**FERRIS** commented that LED billboards and signs are very expensive. He said their proposal addressed allowing billboards in CUP's, but not electric billboards.

**BISHOP** briefly reviewed the DAB summary provided by staff and asked if the DABs had seen the amended language? She also asked if the item could be deferred until all DABs had expressed an opinion on the issue.

**FERRIS** indicated that the Law Department had provided the amended language and he was not sure if all DABs had reviewed it; however, they would prefer not to defer the item.

**TIM AUSTIN** said as agent for number of commercial realtors and developers, they are supportive of the request.

**MCKAY** asked how the ordinance would affect the signs along Kellogg? He mentioned that as progress has happened; sometimes sign design is no longer effective. He mentioned a building he co-owned at Market and Kellogg and how they had applied to have the sign raised to be seen from the new Kellogg elevation, but were turned down.

**MILLER** advised that an administrative adjustment would allow a sign along Kellogg to be raised 20 feet above the rail.

Responding to a question from **MARNELL**, **MILLER** commented that that several factors are taken into account in the sign code including how many other billboards are in the area, distance of the proposed billboard from residential zoning and a number of other factors.

**MARNELL** commented that he was having difficulty understanding the implications of the proposal. He asked how this would affect current CUP's?

**MILLER** responded that approval of the request won't open up all CUPs', but some will be affected. He clarified that CUP's that were currently in place were eligible to be reviewed on a case-by-case basis through the amendment process.

**MOTION:** To approve the recommended language.

**HENTZEN** moved, **GISICK** seconded the motion, and it carried (12-1).

**BISHOP** – No.

**BISHOP** said she would like to make a motion to defer this item until all of the DABs have been given the opportunity to vote on the issue.

**MILLER** clarified that DABs III and IV recommended approval.

**HENTZEN** said he believed this was a property rights question and that he would like to see that property owners are given the right to appeal a decision or ask for what they want.

**GISICK** reported that he attended the DAB IV meeting when this issue was but abstained from voting. He said he didn't think additional DAB input would affect the vote on this issue.

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The Metropolitan Area Planning Department informally adjourned at 4:30 p.m.

State of Kansas                )  
Sedgwick County            ) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
John L. Schlegel, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)